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11 Attorneys for Plaintiff  
12 TIMOTHY GARDNER

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA

15  
16 TIMOTHY GARDNER,  
17 Plaintiff,  
18 vs.  
19 CITY OF BERKELEY, DAVID HODGKINS;  
20 DOUG HAMBLETON; ROY MEISNER;  
BOBBY MILLER,  
21 Defendants.

NO. C10-03410 EMC

STIPULATION AND [PROPOSED]  
ORDER TO EXTEND DATE FOR  
SUMMARY JUDGMENT HEARING  
AND BRIEFING; AND CONTINUE  
CASE MANAGEMENT CONFERENCE

Complaint Filed: June 25, 2010  
Removed to Federal Court: Aug. 3, 2010

24 STIPULATION

25 The parties hereby stipulate through their undersigned counsel that the non-expert  
26 discovery cut-off be extended as follows:

The City will depose Plaintiff on October 14, 2011. Plaintiff may depose the following five witnesses, beginning October 17, 2011: David Hodgkins, Doug Hambleton, Dave Frankel, Eric Gustafson and Jen Louis.

The parties also hereby stipulate through their undersigned counsel that the expert discovery cut-off be extended as follows:

## November 7, 2011: Expert's opening reports

November 21, 2011: Rebuttal reports

December 5, 2011: Expert discovery cut-off.

The parties also stipulate that the hearing for the **Motion for Summary Judgment and the Case Management Conference be continued from December 2, 2011 to December 16, 2011.**

11 | Parties propose the following briefing schedule:

November 16, 2011: Defendant's Summary Judgment Motion Filed

November 30, 2011: Plaintiff's Opposition to Summary Judgment Motion Filed

December 7, 2011: Defendant's Reply to Summary Judgment Motion Filed

**GOOD CAUSE EXISTS** for the stipulation to extend time as follows: Plaintiff's counsel was substituted in less than one week prior to the original discovery cut-off. Plaintiff's previous counsel had failed to comply with Defendant's discovery requests, requests that were necessary for an efficient deposition of plaintiff. Further, Plaintiff's previous counsel had failed to properly notice any depositions prior to the original discovery cut-off. Allowing for limited depositions to be taken after the discovery cut-off; a short extension of expert discovery; and a two-week continuance of the hearing on the motion for summary judgment (with a modified briefing schedule) promotes the interests of justice and will result in no prejudice to any party.

Respectfully submitted:

ZACH COWAN, City Attorney  
MARK J. ZEMBSCH, Deputy City Attorney

Dated: October 7, 2011

By: \_\_\_\_\_ /s/  
MARK J. ZEMBSCH, Deputy City Attorney  
Attorneys for City of Berkeley and David Hodgkins

Respectfully submitted:

## BURNS, SCHALDENBRAND & RODRIGUEZ

Dated: October 7, 2011

By: \_\_\_\_\_ /s/

**EDWARD W. BURNS**  
Attorney for Plaintiff Timothy Gardner

THE FOREGOING STIPULATION  
IS APPROVED AND IS SO ORDERED.

DATE:

EDWARD M. CHEN

## United States District Court Judge